

Historic, archived document

Do not assume content reflects current scientific knowledge, policies, or practices.

copy 1

111 515 1926

THE WAREHOUSEMAN AND THE UNITED STATES WAREHOUSE ACT

By PAUL M. WILLIAMS

*Marketing Specialist, Bureau of Agricultural Economics
United States Department of Agriculture*



MISCELLANEOUS CIRCULAR No. 67

Issued July, 1926



WASHINGTON
GOVERNMENT PRINTING OFFICE
1926

FOREWORD

Out of the need for some means to store and finance properly and adequately crops awaiting marketing, grew the United States warehouse act.

The bill originally introduced in Congress in 1914 aimed primarily to assist the southern cotton planter to finance himself through the cotton depression of that year; but when it became law in 1916, it applied not only to the cotton planter but to the producers of grain, tobacco, and wool. Through amendment since its original passage, the law now applies to six other products—peanuts in the shell, late crop potatoes, dry beans, broomcorn, dried fruits, and sirup, including both cane and maple sirup.

The framers of the law had in mind the producer's interests primarily, but it soon became apparent that others could derive much benefit through a proper use of the law. Leading bankers, dealers in or purchasers of agricultural products, manufacturers of raw agricultural products, and warehousemen operating in a public way have recognized in the warehouse act some real advantages.

This circular is issued in the hope that it may give warehousemen a better conception of what the warehouse act is, how it functions, and how they may avail themselves of it.

THE WAREHOUSEMAN AND THE UNITED STATES WAREHOUSE ACT

The United States warehouse act authorizes the licensing by the Secretary of Agriculture of public warehousemen engaged in the business of storing agricultural products for interstate or foreign commerce.

Warehousemen are not compelled to become licensed under this law. It rests with the warehouseman to take the initiative by applying for a license under the act. It then rests with the Secretary of Agriculture to determine whether the warehouseman is acceptable for licensing and to issue or deny the license.

PURPOSE OF THE UNITED STATES WAREHOUSE ACT

Through the passage of this law it was felt that the following objects could be accomplished:

A national system of public warehouses for the storage of agricultural products would be provided.

Proper storage for farm products would be afforded.

Haphazard, careless storage on the farm would be superseded by careful, intelligent warehousing, thus avoiding enormous waste.

Efficient marketing would be encouraged.

Financing on the basis of properly stored agricultural products would be facilitated.

Federal warehouse receipts, uniform in their terms and conditions, would provide a satisfactory credit instrument which would become generally acceptable to bankers throughout the United States as collateral for loans.

The field of agricultural credit would be materially widened.

SCOPE OF ACT NOT GENERALLY APPRECIATED

When the law was passed many felt that it was planned for the benefit of producers only. No doubt the needs of the producers were uppermost in the minds of the authors of the warehouse act, but in its every-day use it benefits not only the producers, but the banker, merchant, and warehouseman as well.

At first, certain warehousemen viewed the measure as an attempt to regulate their business. They overlooked the fact that the law is not mandatory. Of course, since all warehousemen must agree, before being licensed to observe the law and the regulations, to the extent that the Government sees to it that they do observe their promises, the business of each warehouseman is regulated. But the regulation is not arbitrary or at variance with sound business.

Others thought that the warehouse act meant the actual entry of the Government into the warehousing business. That impression was likewise erroneous. Under this law the Government neither owns nor operates warehouses. It merely supervises in a friendly way the operations of public warehousemen who choose to operate under its provisions. The Government has no intention whatever of forcing warehousemen to operate under the law.

As warehousemen become acquainted with the objects of the law and the methods of operation, they recognize in the law a valuable ally. Many warehousemen, having experienced unfair competition because of certain questionable practices of some competitors, recognized at once that the warehouse act might help to eliminate these practices and serve the industry generally.

A few States, recognizing the merits of the Federal law, enacted similar legislation. Some of these States made their laws compulsory. That is, all warehousemen storing agricultural products in those States must be licensed under the State law.

It has been repeatedly suggested that the United States warehouse act should be made mandatory, but the department does not view the suggestion favorably. A mandatory law, it is feared, would defeat the very purpose of the warehouse act. Under the present law the Secretary of Agriculture is enabled to select and admit to the system only such warehousemen as he feels will make acceptable licensees under the law. It is only through licensing the better class of warehousemen that confidence can be maintained in the warehouse receipts issued by federally licensed warehousemen and this confidence is absolutely necessary if the banking fraternity of the United States is to continue to consider this type of collateral with favor.

PREREQUISITES FOR LICENSING

Only warehousemen storing certain agricultural products are eligible.

The law, as it was originally passed, made possible the licensing of warehousemen storing cotton, wool, tobacco, and grain for the public. An amendment made in 1923 permits the Secretary of Agriculture to declare such commodities eligible as he may deem properly storable under the act. The following additional commodities have been declared eligible and regulations covering the storage of these commodities under the law have been promulgated: Farmer's stock and cleaned peanuts in the shell, the late crop potatoes, broomcorn, dried fruit, dry beans, cane and maple sirup.

INFORMATION TO ACCOMPANY APPLICATION

In supporting an application for a license under the warehouse act the applicant must show—

That he operates a public warehouse suitable for storing the particular commodity or commodities for the storage of which he desires a license.

That the warehouse is equipped with necessary facilities for properly caring for the licensed commodity at all times.

That the personnel connected with the warehouse is competent and thoroughly trustworthy.

That associated with the warehouse are individuals thoroughly competent to grade, weigh, and inspect or classify the agricultural products received for storage.

That he possesses net assets in an amount determined in accordance with specifications found on page 4. Such assets must be shown by a sworn to, current, financial statement.

Upon receipt of an application, an examiner will visit the applicant for the purpose of making the necessary field investigations so that the application may be properly considered.

CONSTRUCTION REQUIREMENTS

The United States Department of Agriculture does not require that warehouses must be of a particular type of construction. The one big consideration is that the building or buildings must be suitable for the storage of the particular products for which a license is desired.

NOT NECESSARY TO LICENSE ENTIRE PROPERTY

It frequently happens that a warehouseman does not wish to place his entire property under license because he may store commodities not eligible under the warehouse act. In such cases he may apply for a license to cover only a portion of his premises, provided that a physical separation is made of the portion to be licensed from unlicensed portions and such separation effectively maintained during the life of the license. That portion of the property which is licensed must be available at all times for the storage of the product which the warehouseman has been licensed to store. Idle licensed space may be utilized for the storage of unlicensed commodities so long as the insurance rate on, or the commercial value of the licensed product, is not adversely affected.

BOND REQUIRED

If it appears, upon review of the examiner's report, that the application should be granted, the warehouseman is called upon to furnish a bond to guarantee the faithful performance of his obligations as a public warehouseman. The amount of the bond is deter-

mined in accordance with specifications below. This bond may be executed by any surety company acceptable to the Department of Agriculture. Personal surety is not acceptable under the United States warehouse act.

EXAMINATIONS SUBSEQUENT TO LICENSING

The United States Department of Agriculture maintains a corps of examiners to examine licensed properties at more or less frequent intervals. These examiners make careful inventories of the warehouses, checking outstanding warehouse receipts against the stocks on hand. They examine the financial condition of the licensee and determine whether the business is being conducted within the act and the regulations. In short, these examinations cover not only the features of the investigation made before the license was issued, but the stocks represented by outstanding receipts are carefully checked to see that the required products are actually in the possession of the warehouseman.

No fee is charged for examinations made after issuing the license unless examinations are requested by the warehouseman. In that case, charges are assessed on the same basis of charges as for the original examination.

BASES FOR DETERMINING NET ASSETS, BOND, AND FEES

The amounts of net assets, bond, and fees required are based on the licensed storage capacity, with minimum and maximum amounts regardless of capacity. The minimum of net assets is \$5,000; minimum bond is \$5,000; minimum inspection fee is \$5. The maximum net assets requirement is \$100,000; the maximum bond is \$50,000; and the maximum inspection fee is \$100.

The rates of net assets, bond, and fees for different products are as follows:

Product	Net asset	Bond	Fee
Cotton.....	\$5 per bale.....	\$5 per bale.....	\$5 per 1,000 B/c.
Tobacco.....	\$5 per M lbs.....	\$5 per M lbs.....	\$1 per 100,000 lbs.
Grain.....	10 cts. per bush..	5 cts. per bush..	\$1 per 10,000 bush.
Wool.....	\$4 per bag.....	\$2 per bag.....	\$1 per 2,000 sq. ft.
Broomcorn.....	\$2 per bale.....	\$2 per bale.....	\$1 per 5,000 sq. ft.
Peanuts.....	\$5 per ton.....	\$5 per ton.....	\$1 per 500 tons.
Dry beans.....	20 cts. per cwt....	20 cts. per cwt....	\$1 per 1,000 cwt.
Potatoes.....	10 cts. per cwt....	10 cts. per cwt....	\$1 per 1,000 cwt.
Dried fruits....	30 cts. per cwt....	30 cts. per cwt....	\$1 per 1,000 cwt.
Cane sirup.....	5 cts. per gal.....	5 cts. per gal.....	\$1 each 5,000 gals.
Maple sirup....	10 cts. per gal....	10 cts. per gal....	\$1 each 5,000 gals.

A fee of \$2 is assessed for each warehouseman's license issued under the act.

If a warehouseman operating more than one warehouse within the same State wishes to operate all his

warehouses in that State under the law, for purposes of determining the amounts of net assets and bond required, all the warehouses to be licensed may be regarded as one warehouse, provided the assets of all of the warehouses are applicable to the liabilities of each warehouse.

Warehousemen may be licensed to store two or more commodities in a single warehouse, under a "combination" license.

Where such license is desired, the amount of bond, net assets, and fees are determined in accordance with the regulations applicable to the particular agricultural product which would require the largest amount of net assets, bond, and fees if the entire capacity of the warehouse were used for the storage of that product only.

BENEFITS TO WAREHOUSEMEN

WAREHOUSEMAN'S COST OF DOING BUSINESS REDUCED

The constant supervision by the department and the care exercised to see that fire hazards are not increased have resulted in flat reductions in insurance rates in many States, both on the buildings and equipment and on the contents. Lower insurance rates than a competitor can offer may be the deciding factor in influencing business to a warehouse.

SAVES AUDITING EXPENSE

The checks made by Federal examiners are beneficial to warehousemen, particularly those who operate a number of warehouses. In some instances the checks have supplanted the private audits and inventories formerly made by warehousemen. A number of licensees have advised the department that its audits are worth the entire cost of licensing and that if they received no other benefits they would be satisfied.

COLLATERAL ATTRACTS BUSINESS

Because of the preference shown by many leading banking institutions for Federal warehouse receipts, many organizations are insisting on having such receipts to facilitate their borrowing. Thus commodities find their way to warehousemen storing under the United States warehouse act, for the owners can be issued Federally licensed warehouse receipts only by a Federally licensed warehouseman.

Loans supported by Federal warehouse receipts are frequently classed as prime paper, and therefore enjoy favorable interest rates. Millions upon millions of dollars are loaned annually on the sole security of Federal warehouse receipts. The Federal Farm Loan Board has expressed its preference for this class of paper. The Federal reserve banks accept Federal warehouse

receipts from member banks as security for loans. One Federal reserve bank that serves a very important agricultural section has ruled that it will accept no receipt representing eligible agricultural products from its member banks as security except the United States warehouse receipt. Many of the acceptance departments of the largest financial institutions of the United States are favorably impressed with the security offered by their borrowers who furnish Federal warehouse receipts (fig. 1).


LICENSE NUMBER 3-11	EASTERN WAREHOUSE & ELEVATOR ROCKVILLE, TENNESSEE EASTERN WAREHOUSE & ELEVATOR CORPORATION, PROPRIETOR INCORPORATED UNDER THE LAWS OF TENNESSEE	RECEIPT No.	THE UNDERSIGNED WAREHOUSEMAN CLAIMS A LIEN ON SAID GRAIN FOR CHARGES AND LIABILITIES AS FOLLOWS:
LICENSED AND BONDED UNDER THE UNITED STATES WAREHOUSE ACT ORIGINAL NEGOTIABLE 		NO. _____ SACKS _____ NET _____ WEIGHT _____ INCLUDING DOCKAGE IF ANY _____ KIND _____ GRADE _____ CONDITION _____	* ACCORDING TO THE OFFICIAL GRAIN STANDARDS OF THE UNITED STATES
RECEIVED FOR STORAGE FROM _____ OF _____ GRAIN OF THE AMOUNT, KIND AND GRADE DESCRIBED HEREIN, STORED IN THE ABOVE-NAMED WAREHOUSE FOR WHICH THIS RECEIPT IS ISSUED SUBJECT TO THE UNITED STATES WAREHOUSE ACT, THE REGULATIONS FOR GRAIN WAREHOUSES THEREUNDER, AND THE TERMS OF THE CONTRACT.		SAID GRAIN IS FULLY INSURED BY THE UNDERSIGNED WAREHOUSEMAN AGAINST LOSS OR DAMAGE BY FIRE, LIGHTNING, AND TORNADO, UNLESS EXPRESSLY STATED OTHERWISE ON THE FACE OF THIS RECEIPT. SAID GRAIN IS ACCEPTED FOR STORAGE UPON CONDITION THAT THE HOLDER OF THE RECEIPT OR DEPOSITOR OF GRAIN SHALL DEMAND THE DELIVERY OF THE GRAIN NOT LATER THAN ONE YEAR FROM THE DATE OF THIS RECEIPT. THE UNDERSIGNED WAREHOUSEMAN IS NOT THE OWNER OF THE GRAIN COVERED BY THIS RECEIPT, EITHER SOLELY, JOINTLY, OR IN COMMON WITH OTHERS, UNLESS OTHERWISE STATED HEREON. UPON THE RETURN OF THIS RECEIPT, PROPERLY INDOESSED, TO THE PAYMENT OF ALL CHARGES AND LIABILITIES DUE THE UNDERSIGNED WAREHOUSEMAN, AS STATED HEREIN, SAID GRAIN WILL BE DELIVERED TO THE ABOVE-NAMED DEPOSITOR OR HIS ORDER.	
ISSUED AT _____ ROCKVILLE, TENN. ON _____ 192____ EASTERN WAREHOUSE & ELEVATOR CORPORATION LICENSED WAREHOUSEMAN		BY _____ GRADE AND WEIGHT DETERMINED BY AN INSPECTOR AND WEIGHER LICENSED UNDER THE U. S. WAREHOUSE ACT.	
THE ISSUANCE OF A FRAUDULENT RECEIPT OR ILLEGAL CONVERSION OR REMOVAL OF THE GRAIN REPRESENTED BY THIS RECEIPT IS PUNISHABLE BY A \$10,000.00 FINE, OR IMPRISONMENT FOR ONE YEAR, OR BOTH			

Fig. 1.—A Federal warehouse receipt for grain. When this receipt is filled out, little room is left for question, disputes are eliminated, and confidence of depositor and banker in the warehouseman is strengthened. Federal warehouse receipts are made on distinctive safety paper made by bonded paper manufacturers, printed only by bonded printers, and issued only by licensed warehousemen.

WAREHOUSE ACT OF VALUE TO WAREHOUSEMEN AND PRODUCERS STORING IN TRANSIT

Warehouses located at points where storage-in-transit privileges are available can frequently operate under the warehouse act with decided advantage.

Since the Federal warehouse receipt is so easily negotiated, little difficulty is experienced in financing a depositor's business while the goods are in storage, even though stored at great distance from the owners and their bankers.

Storage-in-transit privileges enable producers to ship carloads of their product to a distant warehouse en-route to market with the privilege of storing the goods for a year or less, reshipping from the warehouse during this period when feasible, on the through freight rate from originating point to destination. Practically all of the commodities eligible for storage under the United States warehouse act are accorded storage-in-transit privileges.

There are special rules and charges which differ with the different commodities and also when applied to but one commodity under various conditions. In general, however, the storage and concentration in transit privileges are provided for by the tariffs of common carriers in sections where commodities are usually produced. The following rules generally cover the use of this privilege:

Freight charges on the basis of the local rate from point of origin to warehousing point are collected on movement to warehousing or concentration point. Reshipment on the through rate applying from the original point of shipment to the final destination is permitted, the carrier refunding the shipper the charges previously collected covering the inbound movement. The carriers usually require that the paid freight bill covering the inbound movement be surrendered at time of payment.

The life of the contract is generally limited to twelve months from the date of the original shipment on cotton and some other commodities, but to nine months on certain nuts and to six months on potatoes.

The charge for the warehousing in transit privileges varies with the different commodities, and varies on the same commodities under different conditions.

Substitution of different shipments on the outbound movement is provided for in some commodities, but under certain specified conditions.

Unless otherwise specified in the tariff, switching at warehouse points, insurance, or other charges, aside from regular freight charges, are to be assumed by the shipper.

Certain tariffs permit the substitution of manufactured goods for raw inbound products.

Warehousemen operating under the warehouse act will usually find it to their advantage to familiarize themselves with the storage-in-transit privileges which are granted by carriers that operate in their territory,

because frequently with this privilege warehousemen are able to solicit business from points far removed from the territory usually served by warehousemen. The carriers' tariffs should be consulted in order that the extent of these privileges may be fully determined.

TYPES OF WAREHOUSING PRACTICED AND RELATIVE VALUE OF WAREHOUSE RECEIPTS

The United States Department of Agriculture is often asked by merchants, manufacturers, officials of cooperative marketing associations and individual growers as to how they may best avail themselves of the facilities of the United States warehouse act. Merchants and manufacturers frequently want to know whether it is possible for them to license their own warehouses under the United States warehouse act, and issue themselves warehouse receipts covering their own goods. Cooperative marketing associations ask whether they can have licensed subsidiary warehousing corporations which store the products of the associations.

There are a number of set-ups which might be effected and be licensable under the United States warehouse act, but the department feels that it should answer such inquiries in the light of its experience and should suggest the type of organization which will result in obtaining the most acceptable warehouse collateral. The most casual study of warehouse paper as security for credit purposes impresses one with the desirability of having pledged goods so stored that while they are pledged they will be in the custody of strictly disinterested parties. Bankers generally look askance at warehouse receipts which do not represent independent storage.

Broadly speaking, four distinct types of commodity warehousing are now practiced, each of which may be satisfactory from a storage viewpoint, but from a credit standpoint the results are very different. These four types may be briefly described as follows:

Type 1.—A merchant, dealer, manufacturer or other operator runs a public warehouse, not as his main business but as an auxiliary to his principal business. His activities in warehousing are of a dual nature; first, as a warehouseman of products for the public, and second, as a warehouseman of his own products. To finance his own operations he may offer as security for loans warehouse receipts issued by himself to himself on his own goods while they remain in his custody.

Type 2.—A warehouseman operating a public warehouse may warehouse goods primarily for one organization which exercises more or less control over the warehouseman through stock ownership in the warehouse company or through interrelated management.

Type 3.—A warehouseman operating a public warehouse may be warehousing goods principally of one depositor, on the depositor's premises, the premises

having been acquired under lease from the depositor. Complete possession and control of the leased warehouse property and the goods therein remain at all times, night and day, in the warehouseman. This is commonly known as field warehousing or custodian warehousing.

Type 4.—A warehouseman operating a warehouse exclusively for the storage of products of the public generally, and without any interest in the products other than as custodian.

The United States Department of Agriculture feels that if the merchant operating a warehouse as described in type 1 is to obtain the full benefits of the warehouse act and have his collateral enjoy the widest degree of negotiability, he will do well to lease his warehouse property to a public warehouseman who will in turn warehouse the merchant's goods, although perhaps in the same warehouse.

It is possible to license a warehouseman operating along the lines outlined in type 1. The receipts issued under this plan to the public are satisfactory for financing purposes, but receipts issued to the warehouseman himself on his own goods are very much restricted in credit value. However, receipts issued under the warehouse act by a warehouseman of the first type, to himself on his own products, frequently enjoy a better reputation in the eyes of bankers than if they were not issued under the law. This is because of the confidence the banker derives from knowing that the warehouseman is subject to Government supervision. But there are many rediscounting banks which would not accept such collateral. For financing purposes, therefore, receipts issued by a warehouseman to himself on his own product may prove disappointing to him even though the warehouse is operated under the Federal warehouse act.

The second type of warehousing is frequently known as subsidiary warehousing. There is a growing tendency to form subsidiary warehousing corporations. These corporations usually are controlled by the parent organization either through stock ownership or through dictating the management of the warehouse organization. In this type of warehousing the controlling organization usually is the principal patron of the warehouse. It has created the subsidiary organization primarily for the purpose of using the receipts for credit purposes.

The organization of such subsidiary warehousing corporations should be carefully studied before such projects are launched, for such a set-up may not result in giving the parent organization collateral possessing real credit value. Warehouse receipts issued by such subsidiary warehousing corporations are frequently questioned, particularly where the warehouse concern does

not operate independently of the parent organization. In this type of warehousing it is essential that the warehouse organization be in complete control of the warehouse and the products stored therein, and that it be in no way subject to orders, influence, direction, or control of the parent organization.

To the owner of a warehouse who desires to store his own products therein, the third type of warehousing or field warehousing will prove much more satisfactory than the first and second types if receipts are to be used as collateral. If the real purpose of such an arrangement as is comprehended in field warehousing is to be fully realized and the utmost benefit enjoyed, care must be exercised to provide a proper set-up. The following suggestions are pertinent:

If the owner of the warehouse wishes to store his own products and to get warehouse receipts for collateral purposes, the warehouse property should be leased to a wholly disinterested party, that is, someone completely dissociated from the lessor.

The party to whom the property is to be leased should be thoroughly conversant with proper warehouse procedure. Frequently some warehousing concern can be found that will take over such properties and operate them on a very reasonable basis.

The lease should be recorded in line with the well-established policy of giving due notice to the public that control of the leased property has passed to the warehousing concern.

Under this lease complete and absolute control of the property should pass to the lessee. The leased and unleased property should be so segregated by the erection of proper partitions, that there can be no doubt as to the tenancy. Prominent signs indicating the tenancy should be erected so that there may be no question as to who has control of the property. These signs should be of such size, so worded, and so placed, as to give the world notice that the properties are being operated by the warehousing company and should be prominently located and readily visible to all who may come within a reasonable distance of the property.

The warehouseman and duly authorized employees should carry all keys and exercise complete supervision day and night over the property to the exclusion of all others. If necessary for others to enter the premises, such entrances should be made only when accompanied by representatives of the warehouseman.

The question is frequently raised whether an employee of the lessor (borrower) might also act as agent of the lessee (warehouseman). The department looks with disfavor upon such an arrangement. Where at all possible the warehouseman should maintain his own employees. In some cases the warehouseman has merely designated an employee of the lessor as his agent, the employee remaining in the employ of the lessor and receiving compensation from the lessor. Such an arrangement is questionable at best, for it is well established that pledged goods represented by such instruments as warehouse receipts should remain in the complete control of the custodian to whom the goods have been entrusted. The control of pledged

goods by an employee of the lessor may lead to serious difficulty should the warehouse receipts become involved in some court action. Of course, the warehouse receipt should be issued only by the warehouseman.

The fourth type of warehouse needs no elaboration. Under this type the warehouseman has no interest in the products. His function is to receive from any and every one without discrimination so long as the products offered are fit for storing, and to act as a disinterested custodian of the products until such time as the receipts are surrendered and delivery of the products is made. Obviously receipts issued under this plan, if the warehousemen are responsible and competent, are acceptable collateral to almost any banker.

POSITION OF FEDERAL RESERVE BOARD

The Federal Reserve Board has repeatedly outlined its requirements with respect to what constitutes acceptable warehouse receipts. The Federal Reserve Bulletin, dated January 1, 1918, reproduced letters sent out from time to time over the signatures of the officers or members of the Federal Reserve Board, one of which found on page 31 of that bulletin, is germane to this subject. It is as follows:

Receipt is acknowledged of your letter of the 23rd instant, inclosing copy of a letter from the president of the * * * National Bank of * * *. In his letter to you the president of this bank says: "With a view to obtaining bank acceptances, some of our mills are taking out registration for their storehouses in their own name, and some others are organizing their clerks and bookkeepers as separate corporations to register. This last is a mere subterfuge, and yet the claim is made that warehouse receipts of the latter are more favorably considered than the first."

You ask to be advised as to the attitude of the board in this matter. While the board desires to encourage in every way the creation of a proper discount market for acceptances and the use of this form of negotiable instrument, it desires the banks to carefully observe the spirit as well as the letter of the law in developing this market. The board has heretofore ruled that warehouse receipts offered as security for bills accepted by member banks under authority of section 13 of the Federal reserve act must be issued by warehouses which are independent of the borrower. It recognizes the separate entity of the corporation issuing the receipts when such corporation is not itself the borrower. Where a corporation is formed, however, as a subterfuge for the purpose of evading the spirit of the board's ruling, this fact should be taken into consideration by the member bank accepting a bill and by the Federal reserve bank to which it is offered for discount.

If the borrower exercises such control over the corporation issuing the warehouse receipt as to give him control over the goods in storage, the purpose of

requiring a receipt of the independent warehouseman would be defeated. The corporation issuing such receipt must be organized in good faith as an independent corporation and its affairs must be administered by duly authorized officers and agents independent of the borrower in order to comply with the rulings of the board referred to.

On page 634 of the Federal Reserve Bulletin for July 1, 1918, the following is found:

It appears that a certain concern engaged in the canned goods business proposes to set aside part of its readily marketable goods and materials not necessary for immediate purposes and to place them in storage with a lessee of part of its premises. The lessee is then to issue warehouse receipts to the owners of the goods which receipts are to be used as security for drafts drawn against the member bank and accepted by that bank under authority of section 13 of the Federal reserve act.

You desire to be informed whether such a plan would in the opinion of the Federal Reserve Board meet with the requirements of the statute.

In reply, you are advised that if the premises in question are actually turned over to the lessee under a bona fide lease, the lessee being independent of the borrower and having entire custody and control of the goods, there would seem to be no objection to a member bank accepting drafts drawn against the security of warehouse receipts issued by such lessee. It should, however, be expressly understood and agreed that the borrower shall not have access to the premises except with the permission of the lessee, and that he shall exercise no control of any sort over the goods against which warehouse receipts are issued. The warehouse receipts must, of course, be in form to properly convey and secure title to the bank.

The Federal Reserve Bulletin for September 1, 1918, page 862, contains the following letter under the head of "Informal Rulings of the Board." The letter was written to a Federal reserve agent.

There is no provision of the Federal reserve act requiring notes to be secured by warehouse receipts in order to be eligible for rediscount. The writer evidently has in mind the question whether such warehouse receipts would form a sufficient security for drafts drawn against the member bank in a domestic transaction and accepted by the bank.

The requirements of the board appear to have been met in that a separate corporation has been created and the receipts are to be issued by that corporation and not by the borrower. It would suggest, however, that as both corporations have practically the same officers the manager of the warehousing company who executes the receipts should not be an employee of the borrowing company, as the board requires that the receipts should be issued by a company independent of the borrower and this requirement should be met in substance as well as in form.

The Federal Reserve Bulletin of August, 1921, page 963, contains a ruling of the board under the title "Bankers acceptances drawn by cooperative market-

ing associations against warehouse receipts covering agricultural commodities," which also deals with this subject. Again in the issue of the Federal Reserve Bulletin for September, 1923, in ruling upon the acceptability of paper of cooperative marketing associations, the Federal Reserve Board defined what constituted an eligible receipt. The following excerpts on page 1002 of that bulletin are pertinent:

Drafts drawn by cooperative marketing associations are eligible for acceptance by member banks when secured at the time of acceptance by warehouse receipts covering nonperishable agricultural commodities stored in independent warehouses * * *. After referring to certain types of cooperative organizations which take title to the products and have authority to borrow money upon them and to pledge them for money borrowed, the ruling concludes: It is clear that such associations can store such products in independent warehouses and obtain negotiable warehouse receipts conveying security title thereto.

EXPERIENCE OF WAREHOUSEMEN OPERATING UNDER UNITED STATES WAREHOUSE ACT

Warehousemen operating under the United States warehouse act have found such operation practicable and profitable. The Department of Agriculture is continually in receipt of expressions from warehousemen on this subject. The viewpoints of a few warehousemen who have been operating under the law for some time are given. The following is the experience of a grain warehouseman:

We would not attempt to operate our elevator and warehouse except under the Federal warehouse act. We find it gives prestige to our concern, that it gives security and popularity to our business, that it makes our warehouse receipts gilt-edged collateral with all banks, members of the Federal reserve system and intermediate credit banks. Altogether we find it desirable to do business under the Federal warehouse act.

A warehouseman at a terminal point writes to the department as follows:

In reference to the inspection of our warehouse made by the representative of your department, we wish to be placed in the class of those who appreciate such inspection and help and therefore welcome the visits of your field men. We rather hope that we will have a visit shortly so that we can have our records checked and ascertain from an outside source whether they are correct both in form and physically.

The following excerpts are taken from a letter from a large cotton warehouseman:

The farmer knows absolutely that his cotton is safe when he stores it in a licensed warehouse and that it is fully protected by insurance and that it will be forthcoming upon the surrender of his receipt.

The banker knows this also and with the wise requirement that the grade must be entered on the face

of the receipt, he is able to determine absolutely the then value of the receipt as collateral on which to base a loan. He does not have to make inquiries or cause investigations to be made to determine whether the cotton represented by the receipt is in the warehouse. He knows absolutely that it is there if he holds a United States licensed warehouse receipt and will continue to be there until the receipt is surrendered unless it is destroyed by fire in which case it is fully covered or protected by insurance as is required.

It is also helpful to the warehouseman in that it causes his customers to be better satisfied for the reasons given above, which of course will give him an increased patronage, as a satisfied customer is the best advertisement in the world. It also enables the warehouseman to secure a somewhat lower insurance rate.

The inspections as they are made now at irregular intervals by representatives of the department are almost as thorough as the examination of a national bank, which of course, is for the benefit of all concerned. It does not work any hardship on the warehouseman as it simply helps him to keep his records straight. We unhesitatingly recommend the system to all who are operating cotton warehouses.

Another cotton warehouseman who has been licensed for a number of years under the United States warehouse act writes the department as follows:

From a selfish standpoint we might not care to advertise the advantages that we enjoy as the result of the government protection afforded our customers, the banks, and financial institutions, and ourselves as the result of the excellent law under which we operate and the frequent inspection and strict supervision. We predict that the system will grow steadily as its advantages are realized.

In the case of the recent failure of a so-called bonded warehouse about 96 per cent of all the cotton that was released to its owners was transferred immediately to our warehouse, it being the only Government bonded warehouse in this locality.

We can not speak too highly of the system or of the service that we receive in connection with it.

To illustrate with concrete figures how business is attracted to Federally licensed warehousemen, the following figures are taken from a letter from a warehouseman in the cotton territory:

On September 14 this warehouseman applied for a license to store not to exceed 25,000 bales of cotton. His request for the license was granted, but on October 31 he was obliged to apply for an amended license to enable him to operate additional space. The amended license was issued enabling him to store not in excess of 32,000 bales. The following September he was obliged again to ask for an extension of his license. An amended license was then granted permitting him to store not in excess of 36,000 bales, and two months later on November 16 his business had increased so that the department was obliged to amend the license to include other buildings and increase the capacity to

55,942 bales. In other words, in 14 months' time this warehouseman's business had so increased that it became necessary to more than double his licensed capacity. Here is what this warehouseman has to say of the system:

To be perfectly candid, at first we were dubious as to the advisability of entering your system, due to the prevailing idea that there was too much red tape, and to the manner in which you compel all cotton to be stacked in order that the tag on each bale is visible. From actual experience we find absolutely no trace of red tape. On the contrary, we have been extended every consideration, courtesy, and cooperation. From actual experience, our capacity, stacking in accordance with your rules and regulations, has had a tendency to increase rather than decrease. If a warehouseman wishes to conduct his warehouse in a business-like manner, and to be in a position to know the location of any bale in any compartment, we strongly advise him to join the system. On the other hand, if it is his desire just to receive cotton regardless, overlooking any responsibility as to delivery, etc., we assuredly admit the system is no place for him. The method of handling warehouse receipts is simple, but at the same time absolutely accurate, providing the records are kept in accordance with your rules and regulations, which by no means are unreasonable.

ADDITIONAL COPIES

OF THIS PUBLICATION MAY BE PROCURED FROM
THE SUPERINTENDENT OF DOCUMENTS
GOVERNMENT PRINTING OFFICE
WASHINGTON, D. C.

AT

5 CENTS PER COPY



